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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,651	04/01/2002	Uwe Franken	H 4381 PCT/US	3119

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HENKEL CORPORATION
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EXAMINER

MUSSER, BARBARA J

ART UNIT PAPER NUMBER

1733

DATE MAILED: 04/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/089,651

Applicant(s)

FRANKEN, UWE

Examiner

Barbara J. Musser

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1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-8, 10 and 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-8, 10 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art in view of Vaccani(U.S Patent 6,264,744).

The admitted prior art discloses bonding an upper to a sole by pre-treating the surface using mechanical roughening prior to application of the adhesive.(Pg. 1, ll. 8-Pg. 2, ll. 2) The reference does not disclose pre-treating using a plasma jet. Vaccani discloses that in making a shoe, the sole is typically mechanically prepared by milling and that this causes considerable problems because it requires two steps.(Col. 1, ll. 8-17) Instead the reference uses a plasma jet to pre-treat the sole so that pre-treatment and adhesive application can occur in one step.(Col. 1, ll. 29-45; Col. 4, ll. 66-67) It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the mechanical roughening step of the admitted prior art with the plasma jet of Vaccani since this would reduce the number of steps required in the process and would increase reliability and safety.(Col. 1, ll. 18-26, 40-44)

It is noted that this rejection can be overcome by perfecting the priority to applicant's foreign German application.

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3. Claims 6, 7, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heider in view of Fornsel(DE 298 05 999) and Hocker et al. U.S. Patent 6,265,690 is considered an English language translation of DE 298 05 999 and all column and line numbers refer thereto.

Heider discloses a method of bonding a sole to an upper using a hot melt adhesive. The reference suggests the adhesive be applied to only one of the surfaces to be joined and that prior to application of the adhesive, the sole can be pre-treated(Col. 8, ll. 44-49) but does not suggest pre-treating using a plasma jet under normal pressure. Fornsel discloses a method of treating the surface of a workpiece with a plasma jet(Abstract) prior to applying adhesive to bond the workpieces together.(Col. 1, ll. 5-15) Hocker et al. discloses it is known to bond materials to shoe soles by pre-treating the sole using plasma treatment to improve the adhesion.(Col. 1, ll. 37-39; Col. 2, ll. 15-23) It would have been obvious to one of ordinary skill in the art at the time the invention was made to pre-treat the soles of Heider using the plasma jets of Fornsel since Fornsel discloses plasma jet treatment can enhance the adhesion of substrates(Col. 1, ll. 5-15) and particularly since Hocker et al. discloses it is known to use plasma jet treatment on shoe soles to enhance adhesion.(Col. 2, ll. 14-41) While the references do not specifically state the plasma jet treatment occurs by itself, Fornsel does not disclose using the plasma jets at the same time another pre-treatment step occurs. One in the art would appreciate, absent evidence to the contrary, that the pre-treatment steps were not combined.

Regarding claim 7, Fornsel discloses a plasma device having a linear jet.(Figures)

Regarding claim 10, Heider discloses preheating the sole after pre-treating.(Col. 5, ll. 6-24)

4. Claims 8 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heider, Fornsel, and Hocker et al. as applied to claim 6 above, and further in view of Mochida et al. as set forth in the previous office action.

Response to Arguments

5. Applicant's arguments with respect to claims 6-8, 10, and 12 have been considered but are moot in view of the new ground(s) of rejection.

Regarding applicant's argument that Reimer discloses a step wherein plasma jet treatment is the only operation, Heider and Fornsel do not disclose using multiple pre-treatment processes at the same time.

Regarding applicant's argument that Fornsel does not disclose specific methods of treating specific surfaces, the reference is used to show a general method of treatment of surfaces which is applicable to many types of surfaces. The claims do not require more of a specific method than that the surface is pre-treated in a step where only plasma jets are used, and Fornsel discloses such. Heider is used to the treatment of specific surfaces.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Barbara J. Musser** whose telephone number is (571) 272-1222. The examiner can normally be reached on Monday-Thursday; alternate Fridays.

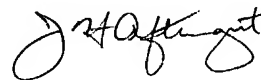
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571)-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

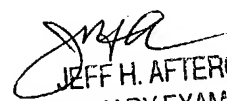
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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


BJM



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